IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 830/2006
(Sudesh Vs. State of Rajasthan & Ors.)

Date of Order : 20/10/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Bhagat Dadhich on behalf of
Mr. Mridul Jain for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.
None present for the non-petitioners No.2 to 7.

BY THE COURT:-

It appears from the record that Mr. Trilok Joshi learned counsel has filed power on behalf of the non-petitioners No. 2 to 7 on 9.10.2006. Mr. Trilok Joshi who is present in the Court, submits that his clients have taken the file back and therefore, he has no instructions to argue the matter on their behalf.

I have heard learned counsel for the petitioner and public prosecutor for the State.

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 3.4.2006 passed by Sessions

Judge, Sri Ganganagar (for short 'the revisional court' hereinafter) whereby the revision petition filed by the non-petitioners No. 2 to 7 against the order dated 15.2.2006 passed by Judicial Magistrate, Sadul Shahar (for short 'the trial court' hereinafter) was allowed and the order dated 15.2.2006 passed by the trial court taking cognizance of the offence under Section 494 r/w Section 120-B IPC and issuing process against the non-petitioners No. 2 to 7, was set aside. The revisional court set aside the order of the trial court holding that the Court at Sadul Shahar has no territorial jurisdiction.

From the perusal of the order of the revisional court, it appears that the revisional court noticed that the marriage of non-petitioner No.2 with Smt. Raman was solemnized at village Bhagsar, Tehsil Abohar, district Firozpur (Punjab) and the family members of non-petitioner No.2 Mahendra have been residing in village Morjandakhari and Barat procession started from village Morjandakhari. Village morjandakhari is within the territorial jurisdiction of Sadul Shahar.

Learned counsel for the petitioner submits that the petitioner has taken up permanent residence at village Morjandakhari, Tehsil Sadul Shahar, district Sri Ganganagar and therefore, in view of provisions of sub-section (2) of Section 182

Cr.P.C., the Court at Sadul Shahar has territorial jurisdiction to try the case.

Section 182 Cr.P.C. reads as under :-

> "182. Offences committed by letters, etc. (1) Any offence which includes cheating may, if the deception is practised by means of letters or telecommunication messages, be inquired into or tried by any Court within whose local jurisdiction such letters or messages were sent or were received; and any offence of cheating and dishonestly including delivery of property may be inquired into or tried by a Court within whose local jurisdiction the property was delivered by the person deceived or was received by the accused person.
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> (2) Any offence punishable under Section 494 or section 495 of the Indian Penal Code (45 of 1860) may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with his or her spouse by the first marriage, [or the wife by the first marriage has taken up permanent residence after the commission of the offence.]"

Thus, from a reading of sub-section (2) of Section 182 Cr. P.C., it is clear that any offence punishable under Section 494 or section 495 IPC may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with his or her spouse by the first marriage, or the wife by the first marriage has taken up permanent residence after the commission of the offence.

In view of the provisions of sub-section (2) of Section 182 Cr.P.C., in my view, the revisional court fell in error in

setting aside the order dated 15.2.2006 passed by the trial court and therefore, the order passed by the revisional court cannot be sustained and is liable to be set aside.

In the result, the criminal misc. petition is allowed. The order impugned dated 3.4.2006 passed by the revisional court is set aside and the order passed by the trial court dated 15.2.2006 is restored.

(H.R.PANWAR),J.

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